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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,733	10/15/2003	Robert Grzesek	MAT 314	1775

7590 10/29/2007

Konstantine Diamond, Esq.
Mattel Inc.
333 Continental Boulevard
Mail Stop M1 - 1518
El Segundo, CA 90245

EXAMINER	
HYLINSKI, ALYSSA MARIE	

ART UNIT	PAPER NUMBER
3711	

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10/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/688,733	Applicant(s) GRZESEK ET AL.	
	Examiner Alyssa M. Hylinski	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 50-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 50-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/13/07 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 50-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dehner (3942285) and Staeblein (DE20201310). Dehner discloses a vehicle body or first component (11) with an outwardly extending alignment member in the form of a post or pin (38), a chassis or second component (30) connectable to the vehicle body (Fig. 5) and a cockpit or third component (12) disposed between the chassis and the vehicle body (Fig. 5) having a receiving alignment member in the form of an aperture (21) to cooperate with and receive the outwardly extending alignment member of the vehicle body to align the elements (Figs. 2 & 5). The device also includes first and second components with rotatable elements in the form of first and second axles with pairs of wheels attached to opposite ends of the axles (Fig. 4). The axles are coupled

to the vehicle between the chassis and the cockpit (Figs. 4 & 5) by means of pedestals or base members in which the axles are retained (Fig. 5). The pedestals take the form of first and second support plates for supporting the first axle and third and fourth support plates for supporting the second axle (Figs. 4 & 5). The plates contain grooves (24, 25) that are configured to receive the axles therein (Figs. 4 & 5). The chassis further includes first and second recesses (34,35) that align and mate with the support plates (Fig. 4). Dehner discloses the basic inventive concept, substantially as claimed with the exception of the cockpit including first and second magnets coupled to the pedestals for attaching the first and second components, respectfully. Staeblein discloses a toy vehicle that utilizes magnets to help attach the wheel elements thereto (abstract). It would have been obvious to one of ordinary skill in the art from the teaching of Staeblein to couple the first and second components using magnets associated with the pedestals in order to easily assemble and detach the device without tools. Furthermore, since all the component parts are known, the only difference is the combination of the "old elements" into a single device by mounting magnets on the cockpit between the plates. Thus, it would have been obvious to one having ordinary skill in the art to mount magnets to the cockpit of Dehner, since the operation of the magnets is in no way dependent on the operation of the other elements and the magnets could be used in combination with the device in order to achieve the predictable result of securely retaining the necessary elements in place.

4. Claims 59-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dehner and Staeblein as discussed above and further in view of Salosky (2803920).

Dehner and Staebelin disclose the basic inventive concept, substantially as claimed, with the exception of using a plurality of magnets to couple the cockpit to the chassis. Salosky discloses a toy vehicle in which the components are held together by magnets (page 1 columns 1-2). It would have been obvious to one of ordinary skill in the art from the teaching of Salosky to attach components of a toy vehicle by magnets in order to securely attach toy components together in an easily releasable manner. Furthermore, the reference discloses the use of magnets as a connecting means to be an art-recognized equivalent at the time of invention and as such it would have been obvious to couple the chassis and cockpit in this manner so as to achieve the predictable result of attached components.

5. Claims 66-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dehner and Staebelin. The references disclose the basic inventive concept as described above, substantially as claimed, with the exception of the chassis including first and second magnets that cooperate with the magnets located on the cockpit when disposed proximate to each other. It would have been obvious to one of ordinary skill in the art to add magnets to the chassis member since it has been held that a mere duplication of parts that does not produce a new and unexpected result cannot patentably distinguish over the prior art. *See in re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

Response to Arguments

6. Applicant's arguments with respect to claims 50-69 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Hylinski whose telephone number is 571-272-2684. The examiner can normally be reached on M-F (8-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AMH


EUGENE KIM
SUPERVISORY PATENT EXAMINER